

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:15-HC-2132-BO

JAMES RAY CLARK,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER


On October 29, 2015, Magistrate Judge Numbers issued a Memorandum and Recommendation (“M & R”) [D.E. 4]. In that M & R, Judge Numbers recommended that the court dismiss without prejudice the instant 28 U.S.C. § 2254 petition because petitioner has not been authorized to file a successive application for habeas relief. Petitioner did not file objections to the M & R.

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M & R, the record, and the instant petition. The court is satisfied that there is no clear error on the face of the record. Accordingly, the court adopts the conclusions in the M & R [D.E. 4], and the instant petition [D.E. 1] is DISMISSED without

prejudice. The clerk shall close the case.

SO ORDERED. This ~~27~~²² day of March 2016.


TERRENCE W. BOYLE
United States District Judge